IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11772 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SADHNA UCHHTTAR BUNIYAD VIDYALAYA - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR NIRAL R MEHTA for Petitioner(s) : 1,
MS REETA CHANDARANA, AGP for Respondent(s) : 1,2,3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 19/06/2006

ORAL JUDGMENT

1. Rule. Learned AGP Ms. Reeta Chandarana waives service of notice of rule on behalf of respondents.

2. Short grievance raised by the petitioner is with respect to the decision of the respondents in not granting permission to start additional class for Standard-8 in its school. The request of the petitioner came to be turned down by the Deputy Director of Education (Secondary) Government of Gujarat, vide its order dated 29-12-2005 in which three grounds were mentioned.

3. Ground no.1 stated that necessary documents of having playground is not produced. Ground no.2 suggested that school has 166 students in Class-8 of which 17 students are repeaters which would mean 65 students would be in two classes, leaving only 19 students for third class which would not justify granting permission for running one more class. Third ground is with respect to the expiry of lease of land admeasuring 5 acres and 35 gunthas earlier granted to the school.

4. It is the case of the learned advocate for the

petitioner that petitioner fulfilled all the requirements and the objections were not well founded. He pointed out that in his appeal before the State Government the petitioner had demonstrated that all three grounds are not germane. He submitted that there was sufficient material before the authority and the petitioner had satisfactory explained its position. With respect to the number of students, he pointed out that figures are not borne out from the record. He submitted that petitioner-school has only one existing class of Standard-8 and sought permission to start one additional class. School has 94 students and not 166 students as considered by the Deputy Director. He submitted that respondents have not applied their mind properly on the material on record.

5. Having heard learned advocates appearing for the parties, I find the issues require reconsideration. I agree with the submissions made by learned advocate for the petitioner that the question of insufficient number of students

has not been properly taken into account. The figures recorded in the impugned order dated 29-12-2005 do not appear to be those of the petitioner-school. It would however, be for the authority to apply mind afresh and come to fresh conclusion. For the above purpose both the impugned orders i.e. order dated 29-12-2005 passed by the Deputy Director and order dated 21-4-2006 passed by the State Government in appeal are quashed. The proceedings are remanded for fresh consideration and disposal after permitting the petitioner to place additional material on record, if the petitioner so desires, as expeditiously as possible and preferably within a period of three months from the date of receipt of a copy of this order.

6. In the result, the petition is allowed to the above limited extent. Rule made absolute to the above limited extent with no order as to costs.

Direct service is permitted.

(Akil Kureshi,J.)

(raghu)